

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 1:14CR66-2
(Judge Keeley)

JOSEPH SCOTT GREEN,

Defendant.

ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
OPINION/REPORT AND RECOMMENDATION CONCERNING PLEA OF
GUILTY IN FELONY CASE AND SCHEDULING SENTENCING HEARING

On November 19, 2014, defendant, Joseph Scott Green ("Green"), appeared before United States Magistrate Judge John S. Kaull and moved this Court for permission to enter a plea of GUILTY to Counts Eleven and Twelve of the Indictment. The defendant stated that he understood that the magistrate judge is not a United States District Judge, and consented to pleading before the magistrate judge. This Court had referred the guilty plea to the magistrate judge for the purposes of administering the allocution pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Green's statements during the plea hearing and the government's proffer establishing that an independent factual basis for the plea existed, the magistrate judge found that Green was competent to enter a plea, that the plea was freely and voluntarily

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given, that he was aware of the nature of the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. On November 21, 2014, the magistrate judge entered an Opinion/Report and Recommendation Concerning Plea of Guilty in Felony Case ("R&R") (dkt. no. 133), finding a factual basis existed for the plea and recommending that this Court accept the plea of guilty to Counts Eleven and Twelve of the Indictment.

The magistrate judge also directed the parties to file any written objections to the report and recommendation within fourteen (14) days after service of the report and recommendation. The magistrate judge further directed that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the report and recommendation. The parties did not file any objections.

Accordingly, this Court **ADOPTS** the magistrate judge's R&R, **ACCEPTS** Green's guilty plea to Counts Eleven and Twelve, and **ADJUDGES** him **GUILTY** of the crimes charged in those counts of the Indictment.

Pursuant to Fed. R. Crim. P. 11(e)(2) and U.S.S.G. § 6B1.1(c), the Court **DEFERS** acceptance of the proposed plea agreement until it

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has received and reviewed the presentence report prepared in this matter.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** as follows:

1. The Probation Officer undertake a presentence investigation of **JOSEPH SCOTT GREEN** and prepare a presentence report for the Court;

2. The Government and Green are to provide their versions of the offense to the probation officer by **December 29, 2014**;

3. The presentence report is to be disclosed to Green, defense counsel, and the United States on or before **February 16, 2015**; however, the Probation Officer is not to disclose the sentencing recommendations made pursuant to Fed. R. Crim. P. 32(e)(3);

4. Counsel may file written objections to the presentence report on or before **March 2, 2015**;

5. The Office of Probation shall submit the presentence report with addendum to the Court on or before **March 12, 2015**; and

6. Counsel may file any written sentencing statements and motions for departure from the Sentencing Guidelines, including the

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factual basis from the statements or motions, on or before
March 19, 2015.

The magistrate judge continued Green on bond pursuant to the
Order Setting Conditions of Release (dkt. no. 31) entered on
September 18, 2014.

The Court will conduct the sentencing hearing for the
defendant on **Friday, March 27, 2015 at 9:00 A.M.** at the **Clarksburg,
West Virginia** point of holding court.

It is so **ORDERED.**

The Clerk is directed to transmit copies of this Order to
counsel of record, the defendant and all appropriate agencies.

DATED: December 11, 2014

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE